

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DESEAN J. OWENS, :
Plaintiff, :
: :
v. :
: :
IMAM MALIK KEDAR and ORANGE :
COUNTY, :
Defendants. :
-----x

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ORDER

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Chancery [initials] Vincent L. Briccetti

Plaintiff, who is proceeding pro se and in forma pauperis, brings claims under 42 U.S.C. § 1983 for violations of his constitutional rights. (Doc. #1).

On September 16, 2022, the Court entered an Order of Service directing the U.S. Marshals Service to serve process on defendants Kedar and Orange County. (Doc. #7).

On December 16, 2022, the U.S. Marshals Service docketed a Return of Service Unexecuted form as to Kedar. (Doc. #10). On January 3, 2023, Orange County provided a new service address for Kedar. (Doc. #16).

On January 5, 2023, the Court issued an Amended Order of Service ordering the Marshals Service to effectuate service upon Kedar at the new address. (Doc. #20). The January 5 Order extended plaintiff's deadline pursuant to Fed. R. Civ. P. 4(m) to serve Kedar to April 25, 2023, and was mailed to plaintiff at the address on the docket.

On May 1, 2023, the docket indicated Kedar had not been served, and plaintiff had not requested an extension of time to do so. Accordingly, the Court sua sponte extended plaintiff's deadline to serve Kedar pursuant to Fed. R. Civ. P. 4(m) to June 30, 2023. (Doc. #22). The May 1 Order directed plaintiff to request an extension of time to serve Kedar if the Marshals Service did not complete service by the June 30 deadline.

On July 6, 2023, because Kedar had still not been served, and plaintiff had not requested an extension of time to do so, the Court again sua sponte extended plaintiff's deadline to serve defendant Kedar pursuant to Fed. R. Civ. P. 4(m) to September 5, 2023. (Doc. #23).

On September 6, 2023, the Marshals Service docketed a Return of Service Unexecuted form as to Kedar, noting that two failed attempts to serve him had been made on August 29 and 30, 2023. (Doc. #24).

On September 20, 2023, the Court ordered defendant Orange County to submit a letter informing the Court whether it would accept service on behalf of Kedar or providing an address where Kedar may be served. The Court again sua sponte extended plaintiff's deadline to serve defendant Kedar pursuant to Fed. R. Civ. P. 4(m) to October 20, 2023. (Doc. #25).

On September 25, 2023, defendant Orange County submitted a letter to the Court explaining that it would not accept service on behalf of defendant Kedar because Kedar was an independent contractor for the County. Orange County did not have another address to provide to the Court, but suggested that his name is Kedar Abdul-Malik, not Malik Kedar. (Doc. #26).

That same day, the Court ordered the Marshals Service to attempt service at the same address using the correct name. The Court sua sponte extended plaintiff's deadline to serve defendant Kedar pursuant to Fed. R. Civ. P. 4(m) to November 6, 2023. (Doc. #28).

On November 7, 2023, the Court again sua sponte extended plaintiff's deadline to serve defendant Kedar pursuant to Fed. R. Civ. P. 4(m) to December 5, 2023. (Doc. #29).

On December 6, 2023, the Court again sua sponte extended plaintiff's deadline to serve defendant Kedar pursuant to Fed. R. Civ. P. 4(m) to February 5, 2024. (Doc. #31).

On January 19, 2024, the Marshals Service docketed a Return of Service Unexecuted form as to Kedar, noting that the property manager of the building where Kedar was to be served indicated Kedar moved out approximately eighteen months earlier. (Doc. #32).

On January 26, 2024, the Court sua sponte extended plaintiff's deadline to serve defendant Kedar pursuant to Fed. R. Civ. P. 4(m) to March 25, 2024, and ordered Orange County to submit a letter providing the Court with additional information about the County's process for hiring independent contractors and the address associated with the County's payment to Kedar for his services.

On February 2, 2024, Orange County submitted a letter to the Court explaining that it asked the correctional facility to reach out to Kedar about his current residence and was informed his new address is 1107 North Avenue, Plainfield, New Jersey 07062.

Accordingly, it is HEREBY ORDERED:

1. The Marshals Service is directed to attempt service on defendant Kedar Abdul-Malik at 1107 North Avenue, Plainfield, New Jersey 07062.
2. Plaintiff's deadline to serve defendant Kedar Abdul-Malik pursuant to Fed. R. Civ. P. 4(m) is sua sponte extended to May 2, 2024.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: February 2, 2024
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge